

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JOSEPH LUPARELLA, : Hon. Susan D. Wigenton
Petitioner :
v. : Civil No. 06-1360
:
: Criminal No. 02-706
:
UNITED STATES OF AMERICA, :
: Respondent : **ORDER**

This matter having been opened to the Court on the motion of defendant-petitioner Joseph Luparella ("Petitioner" or "Luparella") to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255;

And Petitioner having moved to amend his Section 2255 petition to add additional claims, including: claims of ineffective assistance of counsel based upon the admission at trial of certain tax returns; challenges to the use at trial of the transcript of Petitioner's civil deposition testimony; and allegations that the United States failed to conduct a criminal investigation parallel to that of court-appointed Trustees;

And the Court having issued an Opinion dated October 2, 2007 addressing the claims in Petitioner's initial Section 2255 petition, dismissing with prejudice all but one of those claims,

namely Luparella's allegation that his trial counsel refused to allow him to testify; and the Court, pursuant to Petitioner's motion, having appointed Jeffrey L. Schulman, Esq., as *pro bono* counsel to represent Petitioner in connection with an evidentiary hearing on this sole remaining claim;

And the Court having reviewed the written submissions of Petitioner's counsel and of counsel for the United States of America, by Christopher J. Christie, United States Attorney for the District of New Jersey (Assistant United States Attorney Amy S. Winkelmann, appearing);

And the Court having convened an evidentiary hearing on January 15, 2008, at which hearing Luparella testified under oath in support of his Section 2255 petition; and the Court having heard oral argument at that hearing from Petitioner's counsel and from counsel for the United States; and good and sufficient cause having been shown,

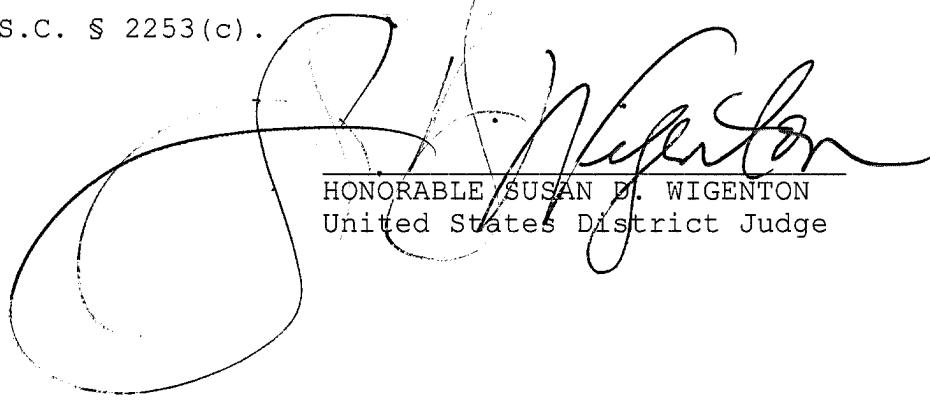
IT IS on this 18th day of January, 2008
hereby ORDERED that:

1. The sole remaining claim from Petitioner's initial Section 2255 petition, namely the allegation that his trial counsel refused to allow him to testify, is **DENIED** and **DISMISSED** with prejudice;

2. The Petitioner's motion to amend his Section 2255 petition is **GRANTED**;

3. The claims raised in Petitioner's amended petition are **DENIED** and **DISMISSED** with prejudice, thereby resolving all of Petitioner's outstanding claims pursuant to 28 U.S.C. § 2255; and

4. No certificate of appealability shall be issued in this matter, for the reason that Petitioner has not made a substantial showing of the denial of a constitutional right as required pursuant to 28 U.S.C. § 2253(c).


HONORABLE SUSAN D. WIGENTON
United States District Judge